



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152160

PRELIMINARY RECITALS

Pursuant to a petition filed September 18, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 24, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's stolen FoodShare benefits may be replaced.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Katherine May, HSPC Sr.
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 15, 2013, Petitioner discovered that her EBT/Quest card was missing. (Testimony of Petitioner)
3. Petitioner did not report the card missing. Petitioner went to the agency on or about September 18, 2013, to request a temporary card and was informed that there was no longer any money on it.

Petitioner reported that she thought her boyfriend might have taken it. (Testimony of Petitioner; See also Testimony of Ms. May)

4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 18, 2013. (Exhibit 1)
5. Petitioner shared her PIN number with her mother, her sister, her niece and her boyfriend. (Testimony of Petitioner)

DISCUSSION

“Electronic Benefits Transfer (EBT) is a program using an electronic method to disburse government benefits to eligible customers (recipients) using plastic debit card technology. eFunds is the current EBT vendor for Wisconsin.

The Wisconsin EBT program issues food stamp benefits to eligible recipients electronically. Food stamp recipients are issued a plastic magnetic swipe QUEST card to use to access their allotted food stamp benefits at point of sale (POS) terminals in US Department of Agriculture (USDA), Food and Nutrition Services (FNS) authorized retail food outlets.”

Process Help Manual (PHM) §§80.1.1 and 80.1.2

“The EBT Card and PIN (personal identification number) responsibility statement specifies that benefits will not be replaced. The client signs this statement prior to initial issuance of EBT benefits. **Benefits will not be replaced if lost as a result of the loss or theft of the Wisconsin QUEST card and PIN up to the point in time that the recipient reports the loss to recipient customer service.** Benefits will not be replaced if lost due to fraud committed, in total or in part, by the recipient.

Benefits will be replaced if lost after the recipient or representative reports to recipient customer service that the card has been lost or stolen. Benefits will also be replaced if lost due to system errors or malfunctions.”

Emphasis added. PHM §80.3.6

Paragraph 5 of the FoodShare Wisconsin brochure states, “If someone uses your card before you cancel your card, your benefits will not be replaced.” (See *Exhibit 2*) Paragraph 5 also states to, “Protect your PIN and your card” and the brochure further states in bold type, “Keep your PIN a secret!” (Id.) Petitioner testified that she received this brochure and as such was well aware of the policy concerning lost or stolen cards and benefits. Still, Petitioner chose to share her PIN number with four different people, one of whom likely took her card and drained her account before she reported it missing.

Section 80.3.6 of the Process Help Manual clearly states that the benefits will only be replaced if lost after the card has been reported missing. Petitioner’s benefits were lost before she reported that her card was missing. As such, she is not eligible to have her benefits replaced.

Further, Section 80.3.6 of the Process Help Manual states that benefits will not be replaced if lost or stolen due to fraud committed, in part, by the recipient. By previously sharing her PIN number with her boyfriend and relatives, Petitioner was complicit in the theft of her benefits. Indeed, had Petitioner kept her PIN a secret, her boyfriend/relatives could not have stolen her benefits. Consequently, Petitioner is, again, ineligible to have her benefits replaced.

CONCLUSIONS OF LAW

Petitioner's stolen FoodShare benefits may not be replaced.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of October, 2013.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 25, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability